

Fiscal Note

State of Alaska
2023 Legislative Session

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|---------------------|--------------|
| Bill Version: | CSSB 89(FIN) |
| Fiscal Note Number: | 8 |
| (S) Publish Date: | 5/13/2023 |

Identifier: SB089CS(FIN)-DOR-TAX-05-12-23
Title: AGE FOR TOBACCO/NICOTINE/E-CIG; TAX
E-CIG
Sponsor: STEVENS
Requester: (S) Finance

Department: Department of Revenue
Appropriation: Taxation and Treasury
Allocation: Tax Division
OMB Component Number: 2476

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

| | FY2024 Appropriation Requested | Included in Governor's FY2024 Request | Out-Year Cost Estimates | | | | |
|------------------------|--------------------------------------|--|-------------------------|--------------|--------------|--------------|--------------|
| OPERATING EXPENDITURES | FY 2024 | FY 2024 | FY 2025 | FY 2026 | FY 2027 | FY 2028 | FY 2029 |
| Personal Services | 183.3 | | 183.3 | 183.3 | 183.3 | 183.3 | 183.3 |
| Travel | 5.0 | | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 |
| Services | 10.1 | | 10.1 | 10.1 | 10.1 | 10.1 | 10.1 |
| Commodities | 24.2 | | 0.2 | 0.2 | 0.2 | 0.2 | 0.2 |
| Capital Outlay | | | | | | | |
| Grants & Benefits | | | | | | | |
| Miscellaneous | | | | | | | |
| Total Operating | 222.6 | 0.0 | 198.6 | 198.6 | 198.6 | 198.6 | 198.6 |

Fund Source (Operating Only)

| | | | | | | | |
|---------------------|--------------|------------|--------------|--------------|--------------|--------------|--------------|
| 1004 Gen Fund (UGF) | 152.2 | | 128.2 | 128.2 | 128.2 | 128.2 | 128.2 |
| 1005 GF/Prgm (DGF) | 70.4 | | 70.4 | 70.4 | 70.4 | 70.4 | 70.4 |
| Total | 222.6 | 0.0 | 198.6 | 198.6 | 198.6 | 198.6 | 198.6 |

Positions

| | | | | | | | |
|-----------|-----|--|-----|-----|-----|-----|-----|
| Full-time | 2.0 | | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 |
| Part-time | | | | | | | |
| Temporary | | | | | | | |

Change in Revenues

| | | | | | | | |
|-----------------------|----------------|------------|----------------|----------------|----------------|----------------|----------------|
| 1005 GF/Prgm (DGF) | 70.4 | | 70.4 | 70.4 | 70.4 | 70.4 | 70.4 |
| 1168 Tob ED/CES (DGF) | 3,223.2 | | 3,239.3 | 3,255.5 | 3,271.8 | 3,288.1 | 3,304.5 |
| Total | 3,293.6 | 0.0 | 3,309.7 | 3,325.9 | 3,342.2 | 3,358.5 | 3,374.9 |

Estimated SUPPLEMENTAL (FY2023) cost: 500.0 (separate supplemental appropriation required)

Estimated CAPITAL (FY2024) cost: 0.0 (separate capital appropriation required)

Does the bill create or modify a new fund or account? Yes
(Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 12/31/23

Why this fiscal note differs from previous version/comments:

This version adds language to the analysis section regarding the CS that passed out of (S)FIN.

Prepared By: Brandon Spanos, Deputy Director
Division: Tax Division
Approved By: Eric DeMoulin, Director
Agency: Department of Revenue

Phone: (907)727-8802
Date: 05/12/2023
Date: 05/12/23

REPORTED OUT OF
SFC 05/12/2023

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2023 LEGISLATIVE SESSION

Analysis

Background Tax Division

This bill would levy a new tax on closed electronic smoking products and vapor products at a rate of 25% of the sale price. Currently, electronic smoking products (ESPs) are not subject to tax at the state level. This bill would not tax the vaping device or its component parts unless they are part of a “closed” system (i.e., a single-use product). Marijuana and hemp vapor products that do not contain nicotine would also not be taxed under this bill. The bill would create a new ESP license with an annual application fee of \$50. This bill also raises Alaska's legal age for nicotine consumption from 19 to 21, to conform with federal law.

The bill has an effective date of July 1, 2023. This is a new tax type (i.e., a retail tax) that would require the Department of Revenue (Department) to update its tax system for filing returns and applying for licenses. Since the Department would need to stand up a new system, it would be very challenging to be ready to issue licenses by the effective date and process tax returns the month following the effective date.

Revenue Impact

No revenue impact is expected from the age change, as sellers have already adjusted selling practices to reflect federal law.

The Department estimates that taxing ESPs at 25% of the retail sale price would generate an additional \$3.22 million in revenue in FY2024, growing slightly in future years due to market and population growth.

The committee substitute for this bill made several changes, two of which will impact revenues. The first change that will impact revenues is the requirement for online retailers to register with the Department, and collect and remit the tax. The Department does not have any data for the online sales into Alaska of ESPs, therefore, the additional revenue from this change is indeterminate. The other change that will affect revenues is moving the Tobacco Use Education and Cessation Fund (TUECF) to a separate fund within the state treasury, instead of being a special account within the general fund, and directing the DOR to deposit all revenues from the new tax on ESPs into the TUECF. This fiscal note reflects that change by changing the fund code for the taxes from 1252 to 1168. The license fees would still be deposited into the GF, so there is no change to that fund code. The Department estimates that license fees would generate an additional \$70.4 thousand in general fund revenue.

Implementation Cost

This fiscal note reflects a higher implementation cost than similar bills introduced in past sessions seeking to tax ESPs. The reason is that past bills would have broadened the existing tax on “Other Tobacco Products” (OTP) which are taxed at the wholesale level. This bill creates a new tax at the retail level. Broadening the OTP tax to include ESPs would require only small changes to the Department’s systems to implement the tax. This fiscal note reflects the costs to stand up a new tax which would require developing a new module in our Tax Revenue Management System (TRMS). Two new positions are required, a Tax Auditor 2 and a Tax Technician 2, to run the licensing, return processing, auditing, and customer service functions of the program since the bill would create a new taxpayer base. The staff would have an enforcement function requiring travel. Services costs include annual overhead for facilities rent and department and statewide core service rates. Commodity costs include a one-time cubicle buildout for the two new positions and required equipment. Out years are reduced to annual office supply costs.

The Department will need to engage FAST Enterprises, our TRMS contractor, to develop a retail ESP module, including a license function, into TRMS and integrate the module with our existing imaging, accounting, and collections modules. The \$500.0 in FY2023 supplemental costs is an estimate for the needed contract with FAST Enterprises to develop the new tax module by the end of the fiscal year.